

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MACI LIBBY,

PLAINTIFF

V.

HMSHOST CORPORATION,

DEFENDANT

CIVIL No. 2:15-cv-426-DBH

ORDER ON PLAINTIFF'S MOTION TO AMEND COMPLAINT

The plaintiff's motion to amend complaint (ECF No. 32) (including the implicit motion to amend the scheduling order) is **GRANTED** over objection. (The amendment adds a Maine Whistleblowers' Protection Act claim to the original gender discrimination claim.) I recognize the defendant's arguments about timeliness, prejudice and futility. However the additional claim is already pending before the Maine Human Rights Commission with the defendant's awareness (as it has been for some time) and therefore judicial economy and economy for the parties will not be served by keeping the claims separate.¹ While there may be some prejudice to the defendant in its strategy for defending the current complaint, it is modest inasmuch as the defendant will have to defend

¹ Although the defendant seems to distinguish the amended complaint's proposed Maine Whistleblowers' Protection Act claim from a retaliation claim for complaining about sexual harassment now pending before the Maine Human Rights Commission, Def.'s Opp'n to Pl.'s Mot. to Amend Compl. at 5 (ECF No. 36), factually they are not materially different, as the defendant acknowledges. *Id.* at 4 n.4.

against the additional claim, with whatever additional discovery is required, at some point. I cannot determine on this record that the amendment is futile.

Counsel shall confer to propose jointly a revised scheduling order in light of the amendment and shall file their proposal by November 23, 2016. If they are unable to agree, they shall file their separate proposals by the same date.

Now that the motion is granted, the plaintiff shall file the Amended Complaint as a separate document.

SO ORDERED.

DATED THIS 3RD DAY OF NOVEMBER, 2016

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE